

### **REMARKS**

Claims 1-25 are pending in this application. Claims 1 and 15 are independent claims. By this Amendment, claim 15 is amended. No new matter is added.

### **Allowable Subject Matter**

Claims 1-14 are indicated as being allowable if a terminal disclaimer is filed disclaiming the terminal portion of the present application that may extend beyond the patent term of co-pending U.S. Patent Application 10/542,027. As the present application is the “later filed” of the co-pending applications, submission of a terminal disclaimer at the present time would be premature in that the claims of co-pending patent application 10/542,027 may be further amended.

### **Claim Rejections**

Claims 15, 16 and 20 are rejected under 35 USC §102(b) as being anticipated by US Patent 5,629,831 to Eggert, et al. (Eggert). The rejection is respectfully traversed.

Eggert relates to a modular control system for automated buildings that includes a terminal block assembly mounted on a ground support rail for controlling the operation of electrical components by means of control circuits supported on printed circuit boards contained within an electronics module that is removably connected with the assembly (col. 1, lines 5-11).

In Eggert, the terminal block assembly is mountable on a grounded support rail 1 and includes an electronics module 2 that is removably connected by plug connections 11 to the terminal block assembly (col. 9, lines 11-16; Fig. 1). The electronics module 2 houses printed circuit boards 40a, 40b that are connected with a ground via the bus bar 41 (see Fig. 6). Thus, Eggert discloses an electronics module 2 that is mountable within a terminal block assembly.

It is alleged in the Office Action that the electronics module 2 corresponds to the claimed “housing” of the modular device recited in independent claim 15. It is also alleged that the electronics module 2 includes a “plurality of predetermined module locations” (no corresponding structure denoted in the Office Action). Applicants submit that the electronics module 2 does not correspond to the claimed housing of the modular device as the electronics module is itself a module that is insertable into the terminal block assembly.

Moreover, even were the electronics module 2 interpreted to correspond to the claimed housing, the electronics module 2 does not include a plurality of predetermined module locations. Rather, the module 2 is insertable at a single module location of the terminal block assembly.

Further, the electronics module 2 does not include a plurality of predetermined module locations on an exterior end side of the housing. Rather, there are no module locations on the exterior of the electronics module 2.

It is also alleged in the Office Action that the recesses 28 shown in Fig. 2 of Eggert correspond to the claimed “at least one coding device.” However, the recesses 28 of Eggert are not arranged at each of the plurality of predetermined module locations. Rather, the recesses 28 are part of the electronics module 2.

As Eggert fails to disclose or suggest each of the features recited in rejected claims as amended, withdrawal of the rejection is respectfully requested.

Claims 18, 19, and 21-24 are rejected under 35 USC §103(a) as being unpatentable over Eggert in view of US Patent 5,652,420 to Innes, et al. (Innes). Claims 17 and 25 are rejected under 35 USC §103(a) as being unpatentable over Eggert. The rejections are respectfully traversed.

Claims 17-19 and 21-25 are allowable for their dependency on independent claim 15 for the reasons discussed above, as well as for the additional features recited therein. As such, withdrawal of the rejections is respectfully requested.

#### **Non-statutory Double Patenting Rejection**

Claims 1-25 are provisionally rejected on the grounds of non-statutory obviousness-type double patenting as unpatentable over co-pending U.S. Patent Application 10/542,027 to Freimuth, et al. (Freimuth). The rejection is respectfully traversed.

As the present application is the “later filed” of the co-pending applications, submission of a terminal disclaimer at the present time would be premature in that the claims of co-pending patent application 10/542,027 may be further amended. Accordingly, withdrawal of the rejection of claims 1-14 is respectfully requested.

Regarding claims 15-25, it is admitted that co-pending US Patent Application 10/542,027 fails to disclose or suggest all of the features of the rejected claims. However, it is alleged that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify US 10/542,027 with the teachings of Eggert. For example, it is alleged that although the conflicting claims are not identical, they are not patentably distinct from each other because, for example, all the limitations of claim 1 of the instant application are met by the combination of claims 1, 7 and 9 of the co-pending application (10/542,027) except for the coding means allegedly taught by Eggert.

In addition to the admitted deficiency, Applicants submit that Eggert also fails to disclose or suggest a modular device, comprising a housing including a plurality of predetermined module locations on an exterior end side of the housing and at least one coding device at each of the plurality of predetermined module locations, the at least one coding device being arranged on a surface of the housing, as recited in independent claim 15 as amended.

Accordingly, the combination of references fails to render the rejected claims obvious,. Therefore, withdrawal of the rejection is respectfully requested.

### **CONCLUSION**

In view of the above remarks and amendments, Applicants respectfully submit that each of the rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

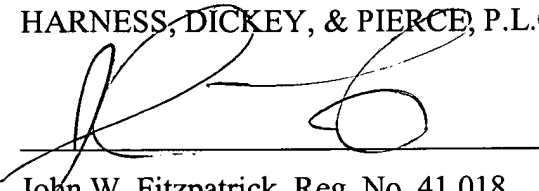
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Fitzpatrick at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By



John W. Fitzpatrick, Reg. No. 41,018

P.O. Box 8910  
Reston, Virginia 20195  
(703) 668-8000

DJD/JWF/kas